

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
DOCKET NO. 04-11933-NMG

SPINIELLO COMPANIES,

Plaintiff(s),

-vs-

BRICO INDUSTRIES, INC.,

Defendant(s).

DEPOSITION UNDER ORAL EXAMINATION OF
ROBERT J. CARD - VOLUME II
PARSIPPANY, NEW JERSEY
SEPTEMBER 28, 2006

REPORTED BY: MARY J. DOUGAN-KNECHT, CSR

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COPY

JOB #7626

1 you found out this project was going to go out for
2 bid?

3 A. We requested a copy of the plans and
4 specifications from the MWRA.

5 Q. And why would you ask for a copy of
6 the plans and specifications?

7 A. To review the project to see what
8 kind of products we could possibly supply to meet
9 the project needs.

10 Q. And how would you determine what
11 products would be necessary for the project?

12 A. How would we determine? We would
13 review the specifications and then we would do a
14 review of the contract drawings and see what
15 products they are requesting.

16 Q. Did you review specifications and
17 contract drawings for this project?

18 A. Yes, I did.

19 Q. And did you make a determination that
20 Brico Inner Seals met those drawings and
21 specifications?

22 MR. FEDERICO: Objection. You can
23 answer.

24 A. I felt the performance requirements
25 that were listed in the specs could be met by Brico

1 products.

2 Q. And once you made a determination
3 that Brico products would be suitable for this
4 project, what's the next thing you would do?

5 A. The next thing I would do.

6 MR. FEDERICO: The next thing he
7 would do or the next thing he did do, Jeremy?

8 Q. The next thing you did do.

9 A. We requested from the MWRA a list of
10 plan holders.

11 Q. And did you receive a list of the
12 plan holders from the MWRA?

13 A. Yes.

14 Q. And once you had the list of plan
15 holders what did you do?

16 A. We reviewed the list and determined
17 who was actually going to supply bids to the MWRA
18 for this contract.

19 Q. And why did you need to know or why
20 do you want to determine who would be supplying
21 bids?

22 A. Because whoever was supplying bids is
23 going to have to purchase the materials to meet the
24 contract from someone.

25 Q. And once you made a determination of

1 A. I don't understand that question at
2 all.

3 Q. Then who did you speak to in
4 preparing for answering these Interrogatories, not
5 your attorneys, but what other employees of Brico or
6 Victaulic?

7 A. I don't remember speaking to anyone
8 in particular about any question on here other than
9 our attorney.

10 Q. Did you ever speak with Brico's sales
11 representatives prior to answering these
12 Interrogatories?

13 A. By Brico sales representatives, can
14 you clarify which ones you are asking about?

15 Q. In preparation for answering these
16 Interrogatories did you have any conversations with
17 Mr. Angert?

18 A. Not that I recall.

19 Q. In preparation for answering these
20 Interrogatories did you ever have any conversations
21 with Mr. Haines?

22 A. No.

23 Q. If you can turn to Interrogatory
24 number 5? Is it correct that toward the end of 1999
25 you attended a prebid meeting with Mr. Haines for

1 the MWRA project which Spiniello was going to be
2 bidding on?

3 A. Yes.

4 Q. And what happened at that prebid
5 meeting?

6 A. Nothing out of the ordinary.

7 Q. Did you raise any questions about the
8 Inner Seal requirements or external coupling
9 requirements?

10 A. I don't remember. We went to many
11 prebid meetings.

12 Q. Did you raise any questions about the
13 testing requirements for the Inner Seals at this
14 prebid meeting?

15 A. If I could review the notes of the
16 prebid meeting, I could answer it. But off the top
17 of my head I don't recall.

18 Q. Do you still have your notes from
19 that prebid meeting?

20 A. The MWRA issued official notes of
21 this meeting. They are available somewhere.

22 Q. Would you have copies of those notes?

23 A. I don't know if we kept them or not.

24 Q. Do you recall if Mr. Haines raised
25 any questions about the specifications for Inner

1 A. It would depend upon the transition
2 amount.

3 Q. So for the approval of the coupling
4 as an as equal for transition couplings your
5 submittal would not have indicated any sort of need
6 for restraints?

7 A. Probably not for a transition
8 coupling.

9 Q. Now, the engineer makes a statement
10 in this letter that there's an error in the Brico
11 calculations for the couplings.

12 A. For the couplings.

13 Q. That it's based on a pressure of
14 65 PSI and that the specifications call for a surge
15 pressure of a hundred PSI.

16 A. Can you direct me to that place?

17 Q. On page 1 of exhibit 24, one
18 paragraph up from the bottom.

19 A. Okay.

20 Q. Do you recall if there was an error
21 in the Brico calculations for the surge pressure of
22 the couplings?

23 A. No, I don't recall.

24 Q. Do the contract specifications
25 require that there be surge pressure up to a 100

1 PSI?

2 A. For the ductile iron pipe they say
3 that.

4 Q. And are the specifications for the
5 coupling also within the ductile iron pipe section?

6 A. I believe so.

7 Q. And would the pressures in the
8 ductile iron pipe be the same pressures that are
9 acting upon the couplings?

10 A. The actual field pressure would be
11 very close.

12 Q. And if the ductile iron pipe must
13 withstand a surge pressure of 100 PSI, what surge
14 pressure would the coupling have to withstand?

15 A. Most likely 100 PSI.

16 Q. Would the engineer make a statement
17 that the Brico coupling was submitted only to
18 withstand the pressure of 65 PSI?

19 A. I don't know if that's what it says.
20 I do not remember providing design calculations on
21 the coupling.

22 Q. Now, the engineer in this document is
23 referring to a submittal that has this calculation.
24 Who at Brico would be responsible for making the
25 calculations on external couplings for this project?